



Commonwealth of Massachusetts State Ethics Commission

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SUFFOLK, ss.

**COMMISSION ADJUDICATORY
DOCKET NO.**

**IN THE MATTER
OF
STEPHEN POWERS**

DISPOSITION AGREEMENT

This Disposition Agreement is entered into between the State Ethics Commission and Stephen Powers pursuant to Section 5 of the Commission's *Enforcement Procedures*. This Agreement constitutes a consented-to final order enforceable in Superior Court, pursuant to G.L. c. 268B, §4(j).

On May 8, 2001, the Commission initiated, pursuant to G.L. c. 268B, §4(a), a preliminary inquiry into possible violations of the conflict of interest law, G.L. c. 268A, by Powers. The Commission has concluded its inquiry and, on November 13, 2001, found reasonable cause to believe that Powers violated G.L. c. 268A, §19.

The Commission and Powers now agree to the following findings of fact and conclusions of law:

1. Powers is a Chelsea City Councilor, a position he has held since 1984.
2. At the June 14, 1999, city council meeting, Powers introduced a measure to establish two 10-minute parking spaces at the intersection of Eastern Avenue and Cabot Street. The motion carried without objection.
3. Powers's wife is a co-owner of S&L Subs, a sub shop located at the corner of Eastern Avenue and Cabot Street. Most of S&L Subs' customers order their food for take-out.
4. Short-term parking spaces provide customers easy access to business establishments, which helps those establishments to generate revenues. It is not unusual for Chelsea businesses that do a significant amount of take-out business to have short-term parking spaces outside their establishments.
5. Although Powers's motion carried without objection, no short-term parking spaces were ever established outside S&L Subs. Neither Powers nor the City Council as a whole ever pursued the matter with either the City Manager or the Traffic and Parking Commission.
6. Section 19 of G.L. c. 268A prohibits municipal employees from participating in their official capacity in particular matters in which, to their knowledge, they or an immediate family member have a financial interest.
7. As a city councilor, Powers was, in June 1999, a municipal employee as that term is defined in G.L. c. 268A, §1.

8. The effort to establish short-term parking spaces outside S&L Subs was a particular matter.
9. By making the motion at the city council to establish the short-term parking spaces, Powers was participating, in his official capacity, in this particular matter.
10. Powers's wife is an immediate family member as that term is defined in G.L. c. 268A, §1.
11. Powers's wife had a financial interest in the effort to establish short-term parking spaces outside her business, because those parking spaces would make it easier for prospective customers to access the sub shop, thus increasing her revenue base. Absent two short-term spaces outside the business, customers might be unable to locate parking, and might therefore elect not to patronize the business.
12. Powers knew of his wife's financial interest in the parking spaces when he made the motion to establish them.
13. Therefore, by offering the motion to establish short-term parking spaces outside of his wife's business, Powers participated in a particular matter in which his immediate family member had a financial interest, thereby violating §19.

In view of the foregoing violation of G.L. c. 268A by Powers, the Commission has determined that the public interest would be served by the disposition of this matter without further enforcement proceedings, on the basis of the following terms and conditions agreed to by Powers:

- (1) that Powers pay to the Commission the sum of \$1,000.00 as a civil penalty for violating G.L. c. 268A, §19;
- (2) that he waive all rights to contest the findings of fact, conclusions of law and terms and conditions contained in this Agreement in this or any other related administrative or judicial proceedings to which the Commission is or may be a party.

DATE: February 20, 2002